

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

**DEFENDANTS**

County of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question  
(U.S. Government Not a Party)
- ☐ 4 Diversity  
(Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice <b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education <b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding    ☐ 2 Removed from State Court    ☐ 3 Remanded from Appellate Court    ☐ 4 Reinstated or Reopened    ☐ 5 Transferred from Another District (specify)    ☐ 6 Multidistrict Litigation - Transfer    ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

**FOR OFFICE USE ONLY**

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE



as Exhibit 1. Exhibit A thereto, is a certain policy of insurance issued by CCC (not The *Cincinnati Insurance Companies*) to State Street.

2. Venue is proper in this Court pursuant to 28 U.S.C. § 1441(a) because this Court's district encompasses the Court of Common Pleas of Lackawanna County, Pennsylvania.

3. CCC received a courtesy copy of the Complaint on April 30, 2020. To its knowledge the Complaint has not yet been served. CCC files this Notice of Removal within thirty (30) days from the date it first received a copy of the Complaint although service has not yet been made. This Notice of Removal is, therefore, timely filed pursuant to 28 U.S.C. § 1446(b).

4. Plaintiff State Street is citizen of the Commonwealth of Pennsylvania in that it is a limited liability corporation organized and existing under the laws of the Commonwealth of Pennsylvania and it maintains its principal place of business at 114 South State Street, Clarks Summit, PA 18411. Exhibit 1, Complaint at ¶1.

5. Defendant, CCC, is a corporation organized and existing under the laws of the State of Ohio and it maintains its principal place of business in Fairfield, Ohio. CCC is, therefore, a citizen of State of Ohio pursuant to 28 U.S.C. § 1332(c)(1).

6. On information and belief, Defendant Kincel & Company, Inc is a fictitious name registered in the Commonwealth of Pennsylvania by AssuredPartners of New Jersey, LLC. ("AssuredPartners"). (Exhibit 2). AssuredPartners is a New Jersey limited liability company. (Exhibit 3). See also entry of appearance being filed in the Lackawanna County Action on behalf of AssuredPartners of New Jersey, LLC d/b/a Kincel & Co. (Exhibit 4). Pursuant to 28 U.S.C. §1441(b) the "citizenship of defendants sued under fictitious names shall be disregarded."

7. AssuredPartners maintains its principal place of business at 200 Colonial Center Parkway, Lake Mary, FL 32746. (Exhibit 5). AssuredPartners is, therefore, a citizen of a state other than the Commonwealth of Pennsylvania pursuant to 28 U.S.C. § 1332(c)(1).

8. In the Complaint, State Street seeks, inter alia, a declaratory judgment that a certain policy of insurance issued by CCC through AssuredPartners, an insurance agency, affords coverage for certain business losses sustained by State Street arising out of closure orders issued by the Commonwealth of Pennsylvania in connection with the Corona Virus Pandemic. It further alleges breach of contract by CCC and AssuredPartners and Bad Faith, pursuant to 42 Pa.C.S.A §8371 against CCC. Although the Complaint does not plead the precise amount of damages sought, stating only that plaintiff has incurred “substantial lost revenues” (Exhibit 1, Complaint ¶ 22) commencing March 17, 2020, the insured’s representative reported to CCC on March 19, 2020 that its losses were \$5,000 - \$6,000 per day. (Exhibit 6). Thus, on information and belief, CCC believes and therefore avers that the damages sought are in excess of the jurisdictional amount of \$75,000, exclusive of interest and costs.

9. The above-entitled action is a civil action over which this Court has subject matter jurisdiction under the provisions of 28 U.S.C. § 1332, as it involves citizens of different states and the matter in controversy exceeds \$75,000, exclusive of interest and costs. Consequently, removal of this action is appropriate under 28 U.S.C. § 1441(a).

10. Written notice of this Notice of Removal will be served on State Street and AssuredPartners promptly after the filing of this Notice of Removal, as is required by law.

11. A true and correct copy of this Notice of Removal will be filed with the Clerk of the Court of Common Pleas of Lackawanna County, Pennsylvania, promptly after the filing of this Notice, pursuant to 28 U.S.C. § 1446(d).

12. Copies of the docket, all process, pleadings and orders served upon CCC (in addition to the Complaint) have been collectively attached to this Notice of Removal. (Exhibit 6)

13. AssuredPartners consents to this removal and joins in this Notice of Removal. (Exhibit 7).

WHEREFORE, Petitioner prays the instant action designated in the Lackawanna County Court of Common Pleas, at 20-CU-2000, be removed from the Court of Common Pleas, Lackawanna County, Pennsylvania to this Court for trial and determination.

Respectfully submitted,

**LITCHFIELD CAVO LLP**

**BY: /s/ Lawrence M. Silverman**

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Date: May 19, 2020



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